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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-383

13 **ACCUSATION**

14 NANCY ELAINE BENNETT
aka Nancy Elaine Alsup Bennett
12182 5th Street
Yucaipa, CA 92399

15 Registered Nurse License No. 598966

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about May 3, 2002, the Board of Registered Nursing issued Registered Nurse
25 License Number 598966 to Nancy Elaine Bennett aka Nancy Elaine Alsup Bennett (Respondent).
26 The Registered Nurse License expired on March 31, 2010, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

....

7. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Out-of-State Discipline)**

5 9. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), in
6 that a 1 year order of probation was made against Respondent's health care professional license
7 issued to Respondent in Arkansas by the Arkansas State Board of Nursing. Said order, which
8 also included certain terms and conditions, was issued pursuant to a Consent Agreement dated
9 September 14, 2011, before the Arkansas State Board of Nursing, in the case entitled, *In the*
10 *Matter of Nancy Elaine Alsup Bennett*, RN License No: R44774 and LPN License No. L22251
11 (expired). A copy of said order is attached hereto as Exhibit A. The findings of fact set forth in
12 said Arkansas order include the following:

13 a. On or about January 26, 2011, Respondent was terminated by North Arkansas
14 Regional Medical Center located in Harrison, Arkansas after a reasonable suspension drug screen
15 tested positive for Oxazepam. Respondent admitted that she had ingested one (1) Oxazepam
16 without a valid prescription as it was her husband's drug.

17 b. Respondent had been observed by co-workers as having "displayed confusion, slurred
18 speech, difficulty following train of thought, flight of ideas irrelevant to the subject matter."
19 Respondent was under a physician's care for anxiety and did have a valid prescription for Xanax
20 for mood control.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Registered Nursing issue a decision:

24 1. Revoking or suspending Registered Nurse License Number 598966, issued to Nancy
25 Elaine Bennett aka Nancy Elaine Alsup Bennett;

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Exhibit A

Consent Agreement and Order by the Arkansas State Board of Nursing
In the Matter of Nancy Elaine Alsup Bennett, RN License No. R44774 and LPN License No. L22251

BEFORE THE ARKANSAS STATE BOARD OF NURSING

ASBN

IN THE MATTER OF:

2011 AUG -9 PM 2:58

NANCY ELAINE ALSUP BENNETT

RN LICENSE NO. ~~R44744~~ ^{R44774}

LPN LICENSE NO. L22251 (EXPIRED)

CONSENT AGREEMENT

13 A complaint charging Nancy Elaine Alsup Bennett (hereinafter referred to as "Respondent") with violations of the Arkansas Nurse Practice Act has been received by the Arkansas State Board of Nursing (hereinafter referred to as "the Board"). In the interest of a prompt and speedy settlement of the above-captioned matter consistent with the public interest, statutory requirements and the responsibilities of the Board, the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

13 Based on the evidence before it, the Board makes the following Findings of Fact, Conclusions of Law and Order:

I. Findings of Fact

- 13 1. The Respondent is the holder of Arkansas RN License No. R44774 and LPN License No. L22251 (expired).
- 13 2. The Respondent was terminated on or about January 26, 2011, by North Arkansas Regional Medical Center, Harrison, Arkansas, after a reasonable suspicion drug screen was positive for Oxazepam.
- 13 3. Respondent admits to taking one (1) of her husband's Oxazepams.
- 13 4. Respondent was observed by co-workers "displayed confusion, slurred speech, difficulty following train of thought, flight of ideas irrelevant to the subject matter."
- 13 5. Respondent is under a physicians care for anxiety and is prescribed Xanax for mood control.

IN THE MATTER OF:

NANCY ELAINE ALSUP BENNETT

RN LICENSE NO. ²⁴⁴⁷⁷⁴~~R44744~~
LPN LICENSE NO. L22251 (EXPIRED)

II. Conclusions of Law

1. Pursuant to Ark. Code Ann. §17-87-203 and §17-87-309, the Board has subject matter and personal jurisdiction in this matter.
2. The conduct described in the Findings of Fact constitutes a violation of Ark. Code Ann. §17-87-309(a)(6).
3. The conduct described in the Findings of Fact constitutes sufficient cause pursuant to Ark. Code Ann. §17-87-309 to suspend, revoke or otherwise discipline a licensee who possesses a nursing license or the privilege to practice nursing in the State of Arkansas.

III. Order

1. The Respondent admits the Board's Findings of Fact and Conclusions of Law.
2. In lieu of a formal hearing on these issues, Respondent agrees to the issuance of the attached Order and waives all rights to a hearing, appeal or judicial review relating to the Order.
3. The Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.
4. The Respondent understands that those admissions are conclusive evidence of a prior violation of the Arkansas Nurse Practice Act and may be used for the purposes of determining sanctions in any future disciplinary matter.
5. The Respondent understands the right to consult legal counsel prior to entering into this Consent Agreement and such consultation is waived.

IN THE MATTER OF:

NANCY ELAINE ALSUP BENNETT

RN LICENSE NO. ^{R44774}~~R44744~~
LPN LICENSE NO. L22251 (EXPIRED)

^B 6. The Respondent understands as a result of entering into this Consent Agreement that the terms of this agreement become public record and shall be reported to the National Council of State Boards of Nursing Disciplinary Data Bank and the Healthcare Integrity and Protection Data Bank.

^B 7. The Respondent understands that this Consent Agreement is effective upon its acceptance by the Board.

I have initialed each numbered and lettered paragraph of the proposed CONSENT AGREEMENT as proof that I have READ IT, UNDERSTAND IT, and do not wish to contact the Arkansas State Board office for further explanation. I accept the proposed CONSENT AGREEMENT as stated.

State of Arkansas)
)ss
County of Franklin

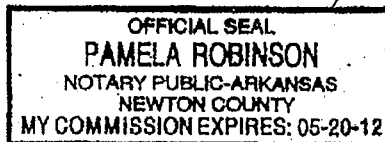
Nancy Elaine Bennett ^{8/5/11}
RESPONDENT'S SIGNATURE DATE 9/27/11 ^{error} ¹³

Subscribed and Sworn to before me, a Notary Public, on this 5th day of August, 2011.

Pamela Robinson
Notary Public

My Commission Expires:

5/20/2012



BEFORE THE ARKANSAS STATE BOARD OF NURSING

IN THE MATTER OF:

NANCY ELAINE ALSUP BENNETT

RN LICENSE NO. ~~R44744~~ 244774
LPN LICENSE NO. L22251 (EXPIRED)

ORDER

In view of the above Findings of Fact, Conclusions of Law, and the consent of the Respondent, the Board hereby issues the following Order:

1. The Respondent consents to the terms and conditions of the Order and waiver of a public hearing is accepted.

2. The Respondent's license(s) is (are) placed on probation for one (1) years. Probation is to commence on the effective date of this Order and is subject to the following conditions:

a. If Respondent's license issuance date is prior to July 1, 2011, within five (5) days upon receipt of this Order, the Respondent's license must be sent to the Board so that the license can be marked "probation."

b. The Respondent must notify each present and future employer in professional nursing of this Order of the Board and the probation conditions on Respondent's license and present to every employer in professional nursing a copy of this Consent Agreement and Order.

c. The Respondent, if employed as a nurse, must practice under an employer-monitored nurse contract. A copy of the employer-monitored nurse contract and a quarterly Performance Evaluation Report must be submitted by the employer to the Board. It is the responsibility and duty of the Respondent to insure that the employer submits these documents in a timely fashion.

IN THE MATTER OF:

NANCY ELAINE ALSUP BENNETT

RN LICENSE NO. ²⁴⁴⁷⁷⁴~~R44744~~
LPN LICENSE NO. L22251 (EXPIRED)

- d.** The Respondent must immediately notify the Board in writing of any change, even a temporary one, in name, address, or employer.
- e.** The Respondent may not work outside the State of Arkansas in another compact licensure state without written permission of the Arkansas State Board of Nursing and the Board of Nursing in the compact licensure state where the Respondent wishes to work.
- f.** The Respondent must submit to random drug screens. The drug screens must meet the criteria established by the Board and be conducted through a Board-approved drug screen monitoring program and laboratory. Contact must be made with a Board-approved drug screen-monitoring program within five (5) business days of receipt of this Order. The Respondent cannot submit specimens at the Respondent's place of employment or practice site. The Respondent cannot collect any Board of Nursing ordered program participant drug screen. The Respondent must contact the drug screening company **daily**. If selected for testing, the Respondent will have **two (2) hours** to report to the drop off site. (See Attachment No. 1)
- g.** The Respondent must abstain at all times from the use of controlled or abuse potential substances, including alcohol, except as prescribed by a licensed practitioner from whom medical attention is sought. Respondent shall not consume hemp, poppy seeds, or any product or by-product containing the same. Respondent shall inform all licensed practitioners who authorize prescriptions of controlled or abuse potential substances of the Board's Order, and Respondent shall cause all such licensed practitioners to submit a written report identifying the medication, dosage, and the date the medication was prescribed. The prescribing practitioners

IN THE MATTER OF:

NANCY ELAINE ALSUP BENNETT

RN LICENSE NO. ²⁴⁴⁷⁷⁴~~R44744~~
LPN LICENSE NO. L22251 (EXPIRED)

shall submit the report directly to the Board within ten (10) days of the date of the prescription.

It is the responsibility and duty of the Respondent to insure that the prescribing practitioners submit their written reports in a timely fashion.

h. The Respondent is responsible for submitting a personal report to accompany required data to the Board on a quarterly basis.

i. The Respondent's responsibility is to insure that all reports are submitted to the Board on a quarterly basis.

j. The Respondent shall execute any release necessary to give the Board of Nursing access to records, including but not limited to medical, employment and criminal records. Failure to execute a release shall be grounds for disciplinary action against Respondent's nursing license/privilege.

k. The Respondent shall obey all federal, state, and local laws, and all rules governing the practice of nursing in this state.

l. All costs involved in complying with this Order shall be borne by the Respondent.

m. Failure to comply with a signed Consent Agreement may result in the suspension of the nurses license to practice nursing in this state.

n. Verification of termination of the probationary period shall be requested in a letter to the Board.

3. In addition to the probation imposed above, the Respondent shall pay a fine of \$500.00 pursuant to Ark. Code Ann. §17-87-104(b)(1). Such fine will be payable within fifteen

IN THE MATTER OF:

NANCY ELAINE ALSUP BENNETT

RN LICENSE NO. ²⁴⁴⁷⁷⁴~~R44744~~
LPN LICENSE NO. L22251 (EXPIRED)

(15) days of receipt of this Order or a payment schedule must be submitted within fifteen (15) days to the Arkansas State Board of Nursing.

I have initialed each numbered and lettered paragraph of the proposed CONSENT AGREEMENT as proof that I have READ IT, UNDERSTAND IT, and do not wish to contact the Arkansas State Board office for further explanation. I accept the proposed ORDER as stated.

State of Arkansas)
)ss
County of Franklin

Nancy E. Bennett
RESPONDENT'S SIGNATURE

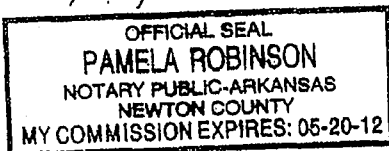
8/5/11
DATE

Subscribed and Sworn to before me, a Notary Public, on this 5th day of August, 2011.

Pamela Robinson
Notary Public

My Commission Expires:

5/20/2012



ARKANSAS STATE BOARD OF NURSING

By: Brenda Murphree
Brenda Murphree, RN, President

Dated: 9/14/2011